UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,611	09/25/2003	Timothy Siorek	02AB102 / ALBRP296US	6787

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EXAMINER
JEAN GILLES, JUDE

ART UNIT	PAPER NUMBER
2443	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/670,611	SIOREK ET AL.
Office Action Summary	Examiner	Art Unit	
	JUDE J. JEAN GILLES	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _04 September 2008_.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-6 and 8-27_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-6 and 8-27_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _09 February 2004_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

       1. ☐ Certified copies of the priority documents have been received.

       2. ☐ Certified copies of the priority documents have been received in Application No. _____.

       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in Reply to communication filed on 09/04/2008.

Response to Amendment

1.   In this Reply, claims 1-6 and 8-27 are currently pending in application and are

under consideration. Claims 1, 6 and 18 have been amended and claim 7 has been

cancelled. Claims 24-27 have been newly added. Claims 1-6 and 8-27 represent a

method and system for an "Embedded Network Traffic Analyzer".

Response to Arguments

2.   Applicant's arguments, see Amendment/Req. Reconsideration-After Non-Final

Reject, filed on 09/04/2008, with respect to the rejections of claims 1-23 under Maher

III have been fully considered and are persuasive. Therefore, the rejection has been

withdrawn. However, upon further consideration, a new ground(s) of rejection is made

in view of Frogner et al below.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

4.   Claims 1-6 and 8-27 are rejected under 35 U.S.C. 102(e) as being anticipated by

Frogner et al (hereinafter Frogner) U.S. patent No. US 6,735,553.

Regarding claims 1-6 and 8-27, Frogner teaches:

 1.(Currently amended) A system that facilitates analyzing a network (fig.2),

comprising:

a network interface component that facilitates access to the network(fig. 2; see

interface 210) , the network interface component comprising:

a network traffic analyzer (NTA) component that analyzes network data and diagnoses

network related data problems (items 100 and 216; col. 4, lines 24-38; see the network

performance analyzer with engine 218).

2.

(Original) The system of claim 1, the network traffic analyzer comprising a filter

component that facilitates associating subsets of network data with respective sources

and/or destinations of the data (see item 218).

3.

(Original) The system of claim 1, the NTA comprising a control component that

facilitates controls of at least a subset of the network based at least in part upon an

analysis of network data by the NTA (see item 220).

4.

(Original) The system of claim 1, the NTA further comprising an artificial intelligence

component that performs a probabilistic analysis on the network data to facilitate

determining a state of the network ().

5.

(Original) The system of claim 1, the NTA further comprising an artificial intelligence

(AI) component that performs a probabilistic analysis on the network data to facilitate

inferring a state of the network (see statistical analysis engine 318).

6.

(Currently Amended) The system of claim 5, the inference relates to a predicted future

state of the network and/or a predicted future state of a device that is part of the

network (see prediction engine 318; col. 6, lines 54-67 continue in lines 1-10 of col. 7).

7.

(Cancelled)

8.

(Original) The system of claim 1, the NTA is an asynchronous integrated circuit (ASIC)

(see figs. 2 and 3).

9.

(Original) The system of claim 1, the NTA is software that makes up part of the network

interface (see item 214).

10. (Original) The system of claim 1, the NTA is a combination of software and

hardware that makes up part of the network interface (fig. 2; col. 4, lines 39-67).

11. (Original) The system of claim 1, further comprising a data store that has stored

thereon historical data relating to state(s) of the network (database 320; col. 6, lines 39-67).

12. (Original) The system of claim 5, the AI component comprises at least one of: a trained classifier, a neural network, a data fusion engine, a Bayesian belief network, a Hidden Markov Model (see data capture engine 312).

13. (Original) The system of claim 1, the network traffic analyzer filter component comprising a data acquisition component that facilitates a filter and analysis of network related data problems (see item 218).

14.
(Original) The system of claim 2, the filter component further comprising:
a source MAC ID filter component; a destination MAC ID filter component; and
a packet type filter component (using a filter component with a NTA with AMC ID and packet type description is inherently part of the NTS presented in figs 2 and 3)

15.
(Original) The system of claim 14, the filter component further comprising:
a sequence number filter component;
a packet length filter component; and
a checksum component (using a filter component with a NTA with sequence number

filter, with packet length description is inherently part of the NTS presented in figs 2 and

3).

16. (Original) The system of claim 3, the control component further comprising a data

collection start/stop component (using a filter component with a NTA with data collection

start/stop is inherently part of the NTS presented in figs 2 and 3)

17.

(Original) The system of claim 16, the control component further comprising:

a memory status and control component; and

a memory upload and download component (figs 2 and 3).

18.

(Currently amended) A network analysis system (figs. 2 and 3) comprising;

means for accessing and interfacing with a network; and

means for analyzing and diagnosing t-he network related data problems, the means for

analyzing and diagnosing is integrated with the means for accessing and interfacing

with the network (figs. 2-3; col. 4, 39-60; col. 5, 36-64).

19. (Previously Presented) A method for allocating network traffic analysis tasks to

networked devices (figs. 2 and 3) comprising:

activating respective monitoring components embedded into network interface of a

plurality of devices of a network (item 316; col. 6, 39-67; item 316););

requesting resource utilization data from a subset of the activated monitoring

components (col. 4, 39-60);

accepting resource utilization data from the subset of activated monitoring components;

evaluating the resource utilization data (col. 5, 36-64);

determining which devices have greatest available resources based at least in part on the resource utilization data (col. 5, 36-64); and

allocating network traffic analysis tasks based at least in part on the available resources (col. 7, lines 10-44; see applications with preferred upper bounds located devices).

20. (Previously Presented) A method for allocating network traffic analysis tasks to networked devices (figs. 2 and 3) comprising:

activating a monitoring component embedded into network interface of more than one device on a network (item 316; col. 6, 39-67; item 316);

requesting resource utilization data from each activated monitoring component;

accepting resource utilization data from each activated monitoring component (col. 4, 39-60);

evaluating the resource utilization data; determining which device has the greatest available resources based at least in part on the resource utilization data (col. 5, 36-64); and

allocating the network traffic analysis tasks to the device with the greatest available resources (col. 7, lines 10-44; see applications with preferred upper bounds located devices).

21. (Presently Presented) A method for allocating network traffic analysis tasks to networked devices (figs. 2 and 3) comprising:

activating a monitoring component embedded into network interface of more than one device on a network (item 316; col. 6, 39-67; item 316);

requesting resource utilization data from each activated monitoring component (col. 4, 39-60);

accepting resource utilization data from each activated monitoring component;

evaluating the resource utilization data; determining the available resources for each device based at least in part on the resource utilization data (col. 4, 39-60);

allocating the network traffic analysis debug task to the device with the greatest available resources; and allocating the network traffic analysis control task to the device with second greatest available resources (col. 7, lines 10-44).

22. (Previously Presented) The system of claim 1, wherein the network traffic analyzer is embedded into the network interface component (figs 2 and 3).

23. (Previously Presented) The system of claim 22, wherein the network interface component is a network interface of a networked device (figs 2 and 3).

24. (New) The system of claim 1, wherein each of networked devices with a network interface comprises an embedded network traffic analyzer component (figs 2 and 3).

25. (New) The system of claim 25, wherein a plurality of the networked devices function as a network traffic analyzer component (figs 2 and 3).

26. (New) The system of claim 1, wherein the network traffic analyzer component comprises a data acquisition component and a post analysis and display component (figs 2 and 3).

27. (New) The system of claim 27, one networked device comprising a network interface includes the data acquisition component and an another networked device comprising a network interface includes the post analysis and display component for the network traffic analyzer component (figs. 2 and 3).

Conclusion

5.   ***This action is made Non-Final***. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger, can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3301.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0800.

/Jude J Jean-Gilles/

Examiner, Art Unit 2443

December 12, 2008